

Appendix O. Sample Final Program Review Determination

Mr. William Smith, President
The School of Practical Nursing
1 North Avenue
New York, N.Y. 10007

CERTIFIED MAIL
Return Receipt Requested
REF: OPEID#
PRCN 199840200000

Dear Mr. Smith:

This office has reviewed Ms. Norton's letter dated February 10, 2000, in response to the remaining issues from the November 14, 1998 Title IV program review report. That report covered The School of Practical Nursing's (TSPN) administration of the Federal Title IV, HEA programs during the 1997/98 and 1998/99 award years.

We have made final determinations for all program review findings. The purpose of this letter is to (1) identify the liabilities due from TSPN; (2) provide instructions for the payment of liabilities to the Department of Education (ED) and holders of the FFEL; and (3) notify you of your right to appeal. This final program review determination letter contains an appendix, which includes a list of all Title IV aid recipients sampled for the 1997/98 and 1998/99 award years.

TSPN should be aware that repeat findings in future program reviews or failure to resolve satisfactorily the findings of this program review may lead to administrative proceedings to fine, limit, suspend or terminate the institution pursuant to 34 CFR, Part 668, Subpart G of the Student Financial Assistance General Provisions regulations.

Additionally, this office will recommend that an Institutional Improvement Specialist contact TSPN to discuss the institution's technical assistance needs.

The institution has taken the required corrective actions to resolve findings # 3, and 5. Therefore, those findings are closed. The consequences of the program violation identified in findings #1, 2, and 4, are as follows.

FINDINGS AND FINAL DETERMINATIONS

Finding

1. Incomplete Verification

TSPN failed to complete verification for several students in the review sample who were selected for verification.

TSPN failed to collect copies of both sides of student #22's tax returns. Furthermore, the student reported that she received \$800 in child support on her verification worksheet. However, the child support had not been included on her Student Aid Report (SAR). There was no documentation in the student's file that calculations had been performed to determine whether this revised information affected her eligibility.

For student #16, the only verification documentation in her file were copies of her 1996 W-2 earnings statements. However, the student reported on her SAR that she and her spouse filed a tax return in 1996. The W-2 can only be accepted in place of a Federal tax return if the institution can document that the student could not provide a copy of the tax return, even after attempts to collect the document from the IRS. Also, there was no verification worksheet in her file, so the student's household size was not verified.

Side two of student #27's tax return was missing, and her tax return showed that she and/or her husband received \$1475 in untaxed pension funds in 1997. These funds should have been reported as untaxed income on her SAR, but were not. The only exception to including these funds as untaxed income would be if the funds were "rolled-over" into another qualified pension plan, such as an IRA. There was no documentation that this was the case, nor was there any evidence that calculations had been performed to determine whether the student's eligibility was affected by the revised information.

Similar findings were noted for students #12, 15, and 25.

An institution is responsible for verifying the information that is used to calculate an applicant's Pell Grant Index (PGI)/Expected Family Contribution (EFC) as part of the determination of need for student financial assistance, for certain students who are selected for verification by the Department. See 34 CFR § 668.54. Information is verified by securing additional documentation or, in some cases, a signed statement attesting to the accuracy of the information provided. 34 CFR § 668.56 and § 668.57. Once the required documentation is received, the institution must determine whether any of the data elements reported on the ISIR are incorrect and, if so, calculations must be performed to determine if the students' eligibility is affected. 34 CFR § 668.59.

Failure to complete verification could result in students receiving funds they are not entitled to, and create a financial burden for ED.

Final Determination

In response to this finding, TSPN was required to ensure that all persons responsible for the awarding of Title IV funds are familiar with the regulatory requirements, especially those relating to verification guidelines.

Furthermore, due to the pervasive nature of this finding, TSPN was also required to review the files of all students who received Title IV funds, and were selected for verification during the 1997/98 and 1998/99 award years. The institution was then afforded the opportunity to collect any required documentation that was missing and perform any required need analysis calculations if the documentation revised any of the data originally reported.

As a result of the file review, TSPN identified several additional students who had not completed verification. The institution was able to collect the required documentation and confirm the eligibility for most of the students.

However, documentation submitted for student #31 showed that the student's Pell Grant eligibility was reduced by \$100. Additionally, TSPN was unable to collect all required documentation for students #16 and 22, resulting in the following liabilities:

-student #16	\$ 845 Pell Grant	\$1,312 FFEL
-student #22	1,170 Pell Grant	2,625 FFEL

Detailed instructions for the payment of this liability are contained in the Payment Instructions section of this letter.

Finding

2. Unresolved Conflicting Information

The reviewers found that TSPN had failed to resolve conflicting information found in two student's files.

Student #17's file contained a copy of her 1996 federal tax return. That tax return showed that she received a \$716 earned income credit in 1996 that was not reflected on her SAR. Although the student was not selected for verification, TSPN was required to review the information that was in her file to determine if it showed any inconsistent information. The institution should have performed a revised need analysis to determine the effect the earned income credit would have on the student's eligibility, but it did not. TSPN performed a revised need analysis during the review, which showed the student's Pell Grant eligibility was reduced from \$2190 to \$1990.

A similar issue was noted in student #19's file.

The School of Practical Nursing - page 4

An institution must resolve any discrepant information prior to disbursing any Title IV funds to students. See 34 CFR § 668.16(f).

Failure to resolve conflicting information may result in students receiving funds they are not entitled to, and create a financial burden for the Department.

Final Determination

As a result of this finding, TSPN was instructed to implement procedures to ensure that all information collected for students is evaluated to determine its impact on a student's eligibility.

The institution was able to resolve the discrepancy for student #19. However, TSPN was unable to resolve the discrepancy for student #17 and is therefore liable for the \$200 Pell Grant overaward for student #17.

Detailed instructions for the payment of this liability are contained in the Payment Instructions section of this letter.

Finding

4. Incorrect Refund Calculations

TSPN did not perform a proper refund calculation for student #1, who withdrew from school on 3/14/98.

The school had determined that no refund was due after the student's tuition was adjusted to account for the withdrawal. However, TSPN failed to consider cash payments the student was expected to make when calculating whether a refund was due to the Title IV programs. Regulations published on 4/29/94, effective 7/1/94, state that "...an institution may not include any unpaid amount of a scheduled cash payment in determining the amount that an institution may retain for institutional charges" See 34 CFR § 668.22(g)(2)(ii)). Once it has been determined how much the student still owes the school after tuition charges have been adjusted, the student is expected to pay the amount of cash that he/she was scheduled to at the beginning of the enrollment period. The fact that the student withdrew should not reduce his/her obligation to make the expected payments. Only after the student has paid the expected share should Title IV funds be applied.

Additionally, TSPN was not considering the Federal refund criteria when performing refund calculations. The regulations at 668.22(b) specify that the institution must consider the federal refund criteria (defined at 668.22(d)) when the pro rata refund requirements do not apply, and there are no specific refund standards established by its accrediting agency or under state law. The school would then be required to pay the refund based on the criteria that is most beneficial to the student. The Director acknowledged that the federal refund criteria were not considered at TSPN.

The School of Practical Nursing - page 5

Failure to make proper refunds may result in the institution retaining funds it is not entitled to and cause increased expense for ED. Additionally, an institution's failure to make adequate refunds of FFEL funds to students' lenders may increase the possibility of default, which also causes increased expenses to ED.

Final Determination

As a result of this finding, TSPN was required to revise its refund procedures, to ensure that all regulatory provisions are addressed.

As a result of applying the regulatory provisions, it was determined that TSPN was required to pay an \$781 refund to the FFEL program for student #1.

Detailed instructions for the payment of this liability are contained in the Payment Instructions section of this letter.

SUMMARY OF LIABILITIES

The total liabilities resulting from this final program review determination are as follows:

<u>Finding #</u>	<u>Pell Grant</u>	<u>FFEL</u>	<u>Total</u>
1	\$ 2,115	3,937	\$ 6,052
2	200	0	200
4	0	781	781
Total	\$ 2,315	4,718	7,033

PAYMENT INSTRUCTIONS

TSPN must pay the \$4,718 FFEL liabilities to the current holders of the loan debts for the applicable students identified in this FPRD. TSPN must provide proof (copy of the canceled checks, front and back) that payment was made to the holder(s) of the loans within 45 days of receipt of this letter, to the following address:

Program Reviewer
U.S. Department of Education
75 Park Place, Room 1206
New York, NY 10007

The total liability to be remitted to the Department of Education based on this final program review determination is \$ 2,315.

Payment of the \$ 2,315 liability must be made within 45 days by forwarding a check, made payable to the U.S. Department of Education, to the following address:

The School of Practical Nursing - page 6

U.S. Department of Education
P.O. Box 952226
St. Louis, MO 63195-2226

To properly identify your institution's payment, and to ensure that the institution receives credit for the payment, please include the following information on the check and any accompanying documents:

DUNS Number: XXXXXXXX
TIN: XXXXXXXX
PRCN: 199840200000

If ED does not receive payment within the 45-day period, interest will accrue in monthly increments, starting with the date of this letter, until the date of receipt of your payment. If you have any questions regarding interest accruals or payment credits you may telephone (202) 401-1450 and ask to speak to your institution's account representative.

Payment Plan: If full payment to ED cannot be made within 45 days of the date of this letter, contact the Financial Improvement Receivables Group at (202) 401-1450 to apply for a payment plan. Interest charges and other conditions apply.

Written requests may be sent to the address below:

Nancy Hoglund, Supervisor
Financial Improvement Receivables Group
U.S. Department of Education
Room 4C107
400 Maryland Ave., S.W.
Washington, DC 20202-4330

If within 45 days of the date of this letter, your institution has neither made payment in accordance with the instructions provided, nor entered into an arrangement to repay the liability under terms satisfactory to the U.S. Department of Education, ED intends to collect the amount due and payable by administrative offset against payments due your organization from the Federal Government. Your institution may object to the collection by offset only by challenging the existence or amount of the debt. Your institution makes this challenge by timely appealing this determination under the procedures described in the "Appeal Procedures" section of this letter. The Department will use those procedures to consider any objection to offset. No separate appeal opportunity will be provided.

If a timely appeal is filed, ED will defer offset until completion of the appeal, unless it determines that offset is necessary as provided in 34 CFR § 30.28. This debt may also be referred to the Department of the Treasury for further action as authorized by the Debt Collection Improvement Act of 1996.

APPEAL PROCEDURES

This constitutes ED's final program review determination with respect to the liabilities identified from the November 14, 1998, program review report. If the institution wishes to appeal to the Secretary for a review of monetary liabilities established by this final program review determination, the institution must file a written request for an administrative hearing. ED must receive the request no later than **45 days** from the date the institution receives this final program review determination. **An original and four copies of the information you submit must be attached to your request.** Your request for an appeal must be sent to:

Ms. Mary Gust, Director
Administrative Actions and Appeals Division
U. S. Department of Education
830 First St. NE Rm. 083E1
Washington, D. C. 20202

If you hand-deliver your submission, or use an overnight delivery service other than the U.S. Postal Service, please address your submission as follows:

Ms. Mary Gust, Director
Administrative Actions and Appeals Division
U.S. Department of Education
830 First St. NE Rm. 083E1
Washington, DC 20002

Your institution's appeal request must: (1) indicate the findings, issues and facts you dispute; (2) state the institution's position, together with pertinent facts and reasons supporting its position; (3) include all documentation it believes the Department should consider in support of the appeal; and (4) include a copy of this final program review determination. The program review control numbers (PRCN) must also accompany your request for review.

If your institution's appeal request is complete and made on a timely basis, the Department will schedule an administrative hearing in accordance with Section 487 (b) (2) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. §1094 (b) (2). The procedures followed with respect to your institution's appeal will be those provided in 34 CFR Part 668, Subpart H.

Program records relating to the period covered by this program review must be retained until the later of: resolution of the loan, claim or expenditure questioned in the program review, 34 CFR § 668.24 (e)(3)(I); or the end of the retention period applicable to the record under 34 CFR § 668.24 (e) (1) and (e) (2).

The School of Practical Nursing - page 8

Your continued cooperation throughout the program review process is appreciated. If you have any questions, please contact Program Reviewer at (212) 264-4022. Questions relating to any appeal of this final program review determination should be directed to the address noted in the Appeal Procedures section of this letter.

Sincerely,

Area Case Director
Case Management Division - Northeast
New York Team

cc: Financial Aid Administrator

APPENDIX

Student Name

Social Security #

1997/1998

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.

1998/1999

- 16.
- 17.
- 18.
- 19.
- 20.
- 21.
- 22.
- 23.
- 24.
- 25.
- 26.
- 27.
- 28.
- 29.
- 30.

Additional Student Identified in File Review for Finding #1

- 31.